

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

RAYMOND ROBERTS,

Plaintiff,

v.

Case No. 1:18-cv-00253-JAP-SCY

**MICHAEL HERNANDEZ,
THE CITY OF ALBUQUERQUE,**

Defendants.


ORDER OF REMAND

The Court considers its subject matter jurisdiction *sua sponte*.¹ On June 29, 2018, the Court granted Plaintiff Raymond Roberts' unopposed motion seeking leave to file an amended complaint. *See* June 29, 2018 Order (Doc. 26). Also on June 29, 2018, Plaintiff filed his Amended Complaint for Damages Pursuant to the New Mexico Tort Claims Act (Amended Complaint) (Doc. 27), omitting all federal claims that had been asserted in the original complaint under 42 U.S.C. § 1983 and removing certain defendants. At the time of its removal to federal court, the Court had original jurisdiction over Plaintiff's complaint under 28 U.S.C. § 1331 because the complaint was founded on a claim or right arising under the United States Constitution and the laws of the United States. *See* Exhibit A to Notice of Removal (Doc. 1-1). The Amended Complaint, however, only alleges state law claims. Because Plaintiff's Amended Complaint no longer raises a federal question, under 28 U.S.C. § 1367(c)(3) the court in its discretion will decline to exercise supplemental jurisdiction over the remaining state claims under the New Mexico Tort Claims Act. *See Brooks v. Gaenzle*, 614 F.3d 1213, 1229 (10th Cir.

¹ *See McAlester v. United Airlines, Inc.*, 851 F.2d 1249, 1252 (10th Cir. 1988) (indicating that subject matter jurisdiction may be raised *sua sponte* by the court at any time during the course of proceedings).

2010) (counseling that federal courts “should decline the exercise of jurisdiction by dismissing the case without prejudice” where all federal claims have been dismissed before trial); *see also Thatcher Enters. v. Cache Cnty. Corp.*, 902 F.2d 1472, 1478 (10th Cir. 1990) (“Notions of comity and federalism demand that a state court try its own lawsuits, absent compelling reasons to the contrary.”). The interests of judicial economy, convenience, fairness, and comity would not be served by retaining supplemental jurisdiction over the state law claims. *See Thatcher Enters.*, 902 F.2d at 1478.

IT IS THEREFORE ORDERED THAT Plaintiff Raymond Roberts’ claims against Defendants Michael Hernandez and the City of Albuquerque in the Amended Complaint are remanded to the Second Judicial District Court, County of Bernalillo, State of New Mexico.


Senior United States District Court Judge